IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

WP(C).No. 29062 of 2007(I)

OS.1561/2003 of PRL.M.C.,TRIVANDRUM
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PETITIONER:

G. MARY SMELLY BAI,
W/O. LATE WILSON WILFRED, WILLS BUNGALOW,
T.C.V/131, PEROORKADA, THIRUVANANTHAPURAM.

BY ADV. SRI.GOPAKUMAR R.THALIYAL
SRI.N.P.PRAJEESH

RESPONDENT:

FREDSON WILFRED, S/O.LATE DR.P.N.WILFRED
WILLS BUNGALOW, TC.30/883, CHACKAI (P.O),
THIRUVANANTHAPURAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 1/10/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.29062 of 2007

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Dated this the 1st day of October, 2007.

JUDGMENT

This Writ Petition is filed against Ext.P8 order passed by the Principal Munsiff, Thiruvananthapuram in I.A..No.9816 of 2004 in O.S.No.1561 of 2003. This application was filed with the prayers, (1) to get the key of the locker from the plaintiff, (2) to prepare an inventory of the materials inside the locker and to submit the same in court along with report; and (3) to surrender the key of the locker to the Honourable Court to be kept in the safe custody of the Court.

2. The court, after considering the materials, directed a Commissioner to be appointed to take inventory of the materials available in locker No.469 in the third defendant Bank. The court also found that taking an inventory of the articles inside the locker is quite essential for the division of the assets among the parties. Therefore, the court issued a Commission

appointing Advocate Sri. V.Suresh Kumar. He was directed to give proper representation before the third defendant together with a copy of the order for opening locker No.469 in the third defendant with a duplicate key, if any available with the Bank or with the manufacturer of the locker concerned. Learned counsel for the writ petitioner submitted that the said order is incorrect and it requires interference at the hands of this Court.

3. A perusal of the documents produced along with this Writ Petition would reveal that formerly an attempt was made by the 16th defendant to get the locker operated by himself. But it was not allowed and the prayer was declined. Now by the impugned order what the court has directed is to take an inventory of the articles contained in the locker. It is alleged that there is a Will executed by the deceased, which is also kept inside the locker. If there is really a Will, then the genuineness, correctness, etc. of the Will also have to be decided by the court.

4. Before taking a final decision in the matter, just because an inventory is taken of the materials available in the locker, it will not cause prejudice to the interest of any of the parties. Opening of the locker is necessary to ensure transparency and

smoothness, I direct the locker be opened in the presence of the plaintiff as well as the 16th defendant by the Advocate Commissioner with Bank officials, prepare an inventory then lock the locker and then submit the key to the court, so that nothing can be operated until a final decision is taken by the court in the matter.

With these observations, this Writ Petition is dismissed.

M.N.Krishnan,
Judge.

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